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NOTICE OF ALLOWANCE AND FEE(S) DUE

60429 7590 04/24/2008

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

EXAMINER

JOO, JOSHUA

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 04/24/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,363

06/27/2003

Darshan B. Joshi

VRT0010C1US

8215

TITLE OF INVENTION: BUSINESS CONTINUATION POLICY FOR SERVER CONSOLIDATION ENVIRONMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	07/24/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

60429 7590 04/24/2008

**CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758**

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,363 06/27/2003 Darshan B. Joshi VRT0010C1US 8215

TITLE OF INVENTION: BUSINESS CONTINUATION POLICY FOR SERVER CONSOLIDATION ENVIRONMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional NO \$1440 \$300 \$0 \$1740 07/24/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
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JOO, JOSHUA 2154 709-223000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Date _____

Typed or printed name _____

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,363	06/27/2003	Darshan B. Joshi	VRT0010C1US	8215
60429	7590	04/24/2008	EXAMINER	
CAMPBELL STEPHENSON LLP 11401 CENTURY OAKS TERRACE BLDG. H, SUITE 250 AUSTIN, TX 78758			JOO, JOSHUA	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 04/24/2008				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 529 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 529 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/609,363

Examiner

JOSHUA JOO

Applicant(s)

JOSHI ET AL.

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/28/2007.
2. ☒ The allowed claim(s) is/are 25,26,29-37 and 40-46.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

/nathan j. flynn/

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given from a telephonic conversation with Applicant Cyrus F. Bharucha, Reg No. 42,324 on March 26, 2008.
3. The application has been amended as follows:

Claims

25. (Currently amended) A method comprising:

determining whether no single system among a plurality of systems meets a resource requirement for hosting a first application among a plurality of applications running on the plurality of systems; and

if the determining indicates that no single system among the plurality of systems meet the resource requirement,

using a priority of the first application and a respective priority for each of the plurality of applications running on the plurality of systems for identifying a resource to free, wherein the resource is one of a plurality of resources and is used by at least one of the plurality of applications, and wherein[[,]] each of the plurality of resources is associated with at least one of the plurality of systems, [[and]]

determining whether freeing the resource would cause a first system, associated with the resource, among the plurality of systems to meet the resource requirement, [[; and]]

freeing the resource in response to the identifying the resource and in response to a determination that freeing the resource would cause the first system to meet the resource requirement, and

hosting the first application on the first system using the resource.

28. (Canceled)

29. (Currently amended) The method of claim [[27]] 25 wherein the freeing the resource comprises stopping a second application that is using the resource, wherein the second application has a lower respective priority than a respective priority of the first application.

30. (Currently amended) The method of claim [[27]] 25 wherein
the freeing the resource comprises moving a second application that is using the resource to a second system among the plurality of systems, wherein
the second application has a lower respective priority than a respective priority of the first application.

33. (Currently amended) The method of claim 31, wherein
the determining that the first application is to be started comprises
comparing ~~a respective~~ the priority of the first application with each of a set of respective priorities for a set of the applications running on the plurality of systems, and
determining that the first application is to be started when the respective priority of the first application is higher than one of the set of respective priorities for the set of applications running on the plurality of systems.

36. (Currently amended) An apparatus comprising:

a processor;

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a first determining circuit configured to determine whether no single system among a plurality of systems meets a resource requirement for hosting a first application among a plurality of applications running on the plurality of systems; [[and]]

an identifying circuit configured to use a priority of the first application and a respective priority for each of the plurality of applications running on the plurality of systems for identifying a resource to free if the determining circuit determines that no single system among the plurality of systems meet the resource requirement, wherein the resource is one of a plurality of resources and is used by at least one of the plurality of applications, and wherein each of the plurality of resources is associated with at least one of the plurality of systems, [[and]]

a second determining circuit configured to determine whether freeing the resource would cause a first system, associated with the resource, among the plurality of systems to meet the resource requirement; [[and]]

a freeing circuit configured to free the resource in response to the identifying circuit identifying the resource and in response to a determination that freeing the resource would cause the first system to meet the resource requirement, and

a hosting circuit for causing the first application to be hosted on the first system using the resource.

39. (Canceled)

40. (Currently amended) The apparatus of claim [[38]] 36 wherein

the freeing circuit comprises a stopping circuit configured to stop a second application that is using the resource, wherein

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the second application has a lower respective priority than a respective priority of the first application.

41. (Currently amended) The apparatus of claim ~~[[38]]~~ 36 wherein the freeing circuit comprises a moving circuit configured to move a second application that is using the resource to a second system among the plurality of systems, wherein the second application has a lower respective priority than a respective priority of the first application.

42. (Currently amended) The apparatus of claim 36 ~~further comprising:~~ [[a]] wherein the first determining circuit is further configured to determine that the first application is to be started.

43. (Currently amended) The apparatus of claim 42 wherein the first determining circuit comprises a detecting circuit configured to detect that the first application failed.

44. (Currently amended) The apparatus of claim 42 wherein the first determining circuit comprises a comparing circuit configured to compare a respective priority of the first application with each of a set of respective priorities for a set of the applications running on the plurality of systems, wherein the first determining circuit is configured to determine ~~determines~~ that the first application is to be started when the respective priority of the first application is higher than one of the set of respective priorities for the set of applications running on the plurality of systems.

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45. (Currently amended) The apparatus of claim 36 wherein the first determining circuit comprises an ascertaining circuit configured to ascertain whether a selected system among the plurality of systems meets a prerequisite for the first application.

46. (Currently amended) The apparatus of claim 36 wherein the first determining circuit comprises an ascertaining circuit configured to ascertain whether the first application does not exceed a limit for a selected system among the plurality of systems.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo who telephone number is 571 272-3966. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915.

/J. J./

Examiner, Art Unit 2154

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154